

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

AURELIO FLORES MORENO and LUCINO
MORALES VICTORIA, *individually and on
behalf of others similarly situated,*
Plaintiffs,

- vs -

153 J AND J FOOD MARKET CORP. (d/b/a
JJ FOOD MARKET) and JULIAN RAMOS

Defendants.

Case No. 17-cv-09439-LTS-KNF

**PLAINTIFFS' FIRST
REQUESTS FOR ADMISSIONS**

Plaintiffs AURELIO FLORES MORENO and LUCINO MORALES VICTORIA (“Plaintiffs”), by and through their attorneys, Michael Faillace & Associates, P.C., in accordance with Rule 36 of the Federal Rules of Civil Procedure and the Local Civil Rules of the United States District Courts for the Southern District of New York, hereby requests that Defendant 153 J AND J FOOD MARKET CORP. (d/b/a JJ FOOD MARKET) admit all of the following in writing. Under the provisions of Rule 36 of the Federal Rule of Civil Procedure you are required to respond to these Requests for Admissions in writing within 30 days of service of these Requests for Admissions in. Your response must be signed as required by Rule 26(g) of the Federal Rules of Civil Procedure. If you fail to respond to these Requests for Admissions within the time allowed, every matter set forth in these requests shall be deemed admitted and conclusively established against you for the purposes of this action. Your responses should be

sent to Michael Faillace & Associates, P.C., 60 East 42nd Street, Suite 4510, New York, New York 10165.

INSTRUCTIONS AND DEFINITIONS

Each numbered request for production, as set forth below (the “requests”), shall be deemed to state and incorporate each and every of the below numbered instructions and definitions as if set forth fully therein.

Except as noted below, Plaintiffs incorporate by reference the uniform definitions set forth in Rules 26.2, 26.3, 33.3 of the Local Rules of the United States District Court for the Southern District of New York. In addition, for the purpose of these requests the following definitions apply:

1. Each request which seeks information relating in any way to communications to, from or within a business and/or corporate entity is hereby designated to demand and should be construed to include all communications by and between representatives, employees, agents, brokers and/or servants of the business and/or corporate entity.
2. Each request should be responded to separately.
3. If Defendants object to a portion of any request, they shall respond to the remainder of the request.
4. For any response or portion of a response that is withheld on grounds of privilege, a privilege log shall be provided in accordance with the requirements of the Local Civil Rules (e.g. Local Rule 26.2).
5. These Requests shall be deemed to be continuing in nature so as to require further and supplemental production when Defendants discover, receive or generate additional responsive documents between the time of the original production and the time of trial.
6. This “action” or “lawsuit” shall mean the above captioned action, filed in the Southern District of New York, bearing Index SDNY 17-cv-09439-LTS-KNF.
7. “Complaint” shall mean the Amended Complaint filed December 9, 2019.
8. Unless otherwise indicated, each request is to be construed as encompassing all information from six years prior to the filing of the lawsuit, to the present date.

9. Unless otherwise indicated, each request asking for information regarding Defendants, should be construed as encompassing any corporation, partnership, subsidiary or other business owned and/or operated, in whole or in part, by Defendants.

10. Unless otherwise indicated, You or Defendants shall mean all the Defendants in the above-titled action, “Corporate Defendant” shall mean 153 J AND J FOOD MARKET CORP. (d/b/a JJ FOOD MARKET), and “Individual Defendants” shall mean Defendant JULIAN RAMOS.

11. “Plaintiffs” shall mean plaintiffs AURELIO FLORES MORENO and LUCINO MORALES VICTORIA.

12. In responding to these requests, the documents produced shall be segregated and identified by the paragraphs and subparagraphs of this request to which they are primarily responsive; or shall be produced as kept in the ordinary course of business.

13. Defendants shall respond to these combined requests separately, and indicate from which Defendant each response is provided. If such response becomes unduly burdensome, counsel for Defendants is invited to discuss with Plaintiff’s counsel an appropriate means of response.

REQUESTED ADMISSIONS

1. At all times since October 21, 2016 153 J AND J FOOD MARKET CORP. (d/b/a JJ FOOD MARKET) controlled a store located at 153 East 99th Street, New York, NY under the name of JJ Food market.

Response:

2. Defendant 153 J AND J FOOD MARKET CORP. filed for incorporation on October 21, 2016.

Response:

3. Defendant 153 J AND J FOOD MARKET CORP. has sold liquor since its incorporation on October 21, 2016.

Response:

4. Defendant 153 J AND J FOOD MARKET CORP. has a sign on its exterior.

Response:

5. At the time Defendant 153 J AND J FOOD MARKET CORP. filed for incorporation on October 21, 2016, it did not install a new sign on its exterior.

Response:

6. At the time Defendant 153 J AND J FOOD MARKET CORP. filed for incorporation on October 21, 2016, it did not change the menu in its deli section.

Response:

7. Defendant JULIAN RAMOS is an owner of 153 J AND J FOOD MARKET CORP.

Response:

8. Defendant JULIAN RAMOS physically pays invoices for 153 J AND J FOOD MARKET CORP.

Response:

9. Defendant JULIAN RAMOS physically pays employee wages for 153 J AND J FOOD MARKET CORP.

Response:

10. Defendant JULIAN RAMOS physically deposits funds in a 153 J AND J FOOD MARKET CORP. bank account

Response:

11. Defendant 153 J AND J FOOD MARKET CORP. is a successor in liability to JJ Food Market Corp..

Response:

12. Defendant 153 J AND J FOOD MARKET CORP. operates the same store as JJ Food Market Corp..

Response:

13. Defendant 153 J AND J FOOD MARKET CORP. operates in the same location as JJ Food Market Corp..

Response:

14. Defendant 153 J AND J FOOD MARKET CORP. operates in the same location as JJ Food Market Corp. under the same lease as JJ Food Market Corp.

Response:

15. Defendant 153 J AND J FOOD MARKET CORP. uses the same food vendors as JJ Food Market Corp..

Response:

16. Defendant 153 J AND J FOOD MARKET CORP. uses the same credit card vendor as JJ Food Market Corp..

Response:

17. Defendant 153 J AND J FOOD MARKET CORP. uses the same credit card machine as JJ Food Market Corp..

Response:

18. Defendant 153 J AND J FOOD MARKET CORP. uses the same cash register as JJ Food Market Corp..

Response:

19. Defendant 153 J AND J FOOD MARKET CORP. uses the same deli machine as JJ Food Market Corp..

Response:

20. Defendant 153 J AND J FOOD MARKET CORP. uses the same refrigerators as JJ Food Market Corp..

Response:

21. Defendant 153 J AND J FOOD MARKET CORP. uses the same food racks as JJ Food Market Corp..

Response:

22. Defendant 153 J AND J FOOD MARKET CORP. uses the same vendors as JJ Food Market Corp..

Response:

23. Defendant 153 J AND J FOOD MARKET CORP. shares some of the same employees as JJ Food Market Corp.

Response:

24. Defendant 153 J AND J FOOD MARKET CORP. does not have a written executed contract with JJ Food Market Corp.

Response:

25. Defendant 153 J AND J FOOD MARKET CORP. did not purchase a business from JJ Food Market Corp. for a sum of money.

Response:

Dated: New York, New York
August 6, 2020

MICHAEL FAILLACE & ASSOCIATES, P.C.

By: /s/ Daniel Tannenbaum
Daniel Tannenbaum
Michael Faillace & Associates
60 East 42nd Street, Suite 4510
New York, New York 10165
(212) 317-1200
Attorneys for Plaintiff

TO:

Enrique Armando Leal
Law Offices of Enrique A. Leal
4222 Broadway
New York, NY 10033
(212) 787-7760

Email: enriqueleal219@gmail.com

Counsel for Defendants

Certificate of Service

Daniel Tannenbaum, an attorney duly admitted in the State of New York and in this Court, hereby certifies:

I have today served the annexed “Plaintiffs’ First Request for Admissions” on the Defendants via Electronic Mail and First Class Mail to their attorneys of record in this matter at the address below.

Dated: August 6, 2020

/s/ Daniel Tannenbaum
Daniel Tannenbaum

SERVICE LIST:

Enrique Armando Leal

Law Offices of Enrique A. Leal

4222 Broadway

New York, NY 10033

(212) 787-7760

Email: enriqueleal219@gmail.com

Counsel for Defendants